THE HON'BLE SRI JUSTICE N.V. RAMANA

W.P. No.12896 of 2006

Order:

The petitioner states that he worked as casual Turner in the Light Machine Shop (LMS) of the respondent-Company from 24.12.1994 to 26.04.2004. While so, on 27.04.2004, the respondent-Company, without following the procedure prescribed under law, orally terminated his services. Aggrieved by the same, he raised an industrial dispute in I.D. No.57 of 2006, and the same is pending adjudication before the Labour Court. Now the case of the petitioner is that the respondent-Company is going to regularize the services of his junior casual turners, ignoring his claim. Hence, he filed the present writ petition seeking to direct the respondent-Company to regularize his services as Turner or in any other appropriate post.

Heard the learned counsel for the petitioner and the learned Standing Counsel for the respondent-Company.

In "***Secretary, State of Karnataka v. Umadevi***"[1], the Constitution Bench of the Supreme Court recently considered the issue of regularization of casual employees and held thus:

> "Unless the appointment is in terms of the relevant rules and after a proper competition among qualified persons, the same would not confer any right on the appointee. If it is a contractual appointment, the appointment comes to an end at the end of the contract, if it were an engagement or appointment on daily wages or casual basis, the same would come to an end when it is discontinued. Similarly, a temporary employee could not claim to be made permanent on the expiry of his term of appointment. It has also to be clarified that merely because a temporary employee or a casual wage worker is continued for a time beyond the term of his appointment, he would not be entitled to be absorbed in regular service or made permanent, merely on the strength of such continuance, if the original appointment was not made by following a due process of selection as envisaged by the relevant rules. It is not open to the Court to prevent regular recruitment at the instance of temporary employees whose

> period of employment has come to an end or of ad hoc employees who by the very nature of their appointment, do not acquire any right. High Courts acting under Article 226 of the Constitution of India, should not ordinarily issue directions for absorption, regularization, or permanent continuance unless the recruitment itself was made regularly and in terms of the constitutional scheme. Merely because, an employee had continued under cover of an order of Court, which is described as 'litigious employment', he would not be entitled to any right to be absorbed or made permanent in the service. In fact, in such cases, the High Court may not be justified in issuing interim directions, since, after all, if ultimately the employee approaching it is found entitled to relief, it may be possible for it to mould the relief in such a manner that ultimately no prejudice will be caused to him, whereas in interim direction to continue his employment would hold up the regular procedure for selection or impose on the State the burden of paying an employee who is really not required. The Courts must be careful in ensuring that they do not interfere unduly with the economic arrangement of its affairs by the State or its instrumentalities or lend themselves the instruments to facilitate the bypassing of the constitutional and statutory mandates."

In the instant case, it is the admitted case of the petitioner that his termination is the subject matter of I.D. No. 57 of 2006 and his status as a casual labour did even not attain finality and the same is pending adjudication before the Labour Court. Whether the petitioner has worked as casual labour on daily wages and whether the said appointment was made by following the due process of selection as envisaged by the relevant rules and whether the petitioner is entitled for regularization of his services are all matters to be decided by the Labour Court, and this Court in exercise of jurisdiction under Article 226 of the Constitution of India, cannot interfere and direct the respondent-Company to regularize the services of the petitioner at this stage, more so when the apex Court in ***Secretary, State of Karnataka v. Umadevi,*** clearly held that High Courts acting under Article 226 of the Constitution of India, should not ordinarily issue directions for absorption, regularization, or permanent continuance unless the recruitment itself was made regularly and in terms of the constitutional scheme.

The writ petition is devoid of merits and the same is accordingly

dismissed. No costs.

N.V. RAMANA, J.

Date: 27.06.2006
KSR/Nsr

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1 2006 AIR SCW 1991